

protection of Corps constructed hurricane and shore protection projects. Flood fighting measures are applicable to any flood control structure (Federal, state, local, and private) where assistance is supplemental to state and local efforts. Corps assistance is not appropriate to protect flood control structures constructed and/or maintained by other Federal agencies where those agencies have emergency authority.

(a) *Flood response.* Corps assistance in support of other Federal agencies or state and local interests may include the following: technical advice and assistance; loaning of flood fight supplies, e.g., sandbags, polyethylene sheeting, lumber, stone; loaning of Corps-owned equipment; hiring of equipment and operators for flood fight operations; emergency contracting.

(b) *Post flood response.* Corps divisions/districts are provided authority to furnish assistance for a period not to exceed 10 days in response to a Governor's request. This assistance may include the following: Provision of technical advice and assistance; clearing of drainage channels, bridge openings, or structures blocked by debris deposited during a flood event; removal of debris blockages of critical water supply intakes, sewer outfalls, etc.; removal of minimum debris necessary to reopen critical transportation routes; temporary construction to restore critical transportation routes or public services/facilities; other assistance required to prevent imminent loss of life or public property.

#### § 203.32 Policy.

During or immediately following a flood or coastal storm, emergency operations may be undertaken by the Corps to supplement state and local activities. Corps assistance is limited to the preservation of life and improved property, i.e., residential/commercial developments and public facilities/services. Direct assistance to individual homeowners or businesses is not permitted. Assistance will be temporary, meet the immediate threat, and is not intended to provide permanent solutions. All Corps activities will be coordinated with the State Office of Emergency Services or equivalent. Reimbursement of state or local emer-

gency costs is not authorized. The assurances required for the provision of Corps assistance apply only to the work performed under Pub. L. 84-99 and will not prevent state or local governments from receiving other Federal assistance.

(a) *Flood response.* Request for Corps assistance will be in writing from the Governor or his/her authorized representative. When time does not permit a written request, a verbal request from either a responsible state or local official will be accepted followed by a written confirmation from the state. Corps assistance may include operational control of flood response activities, if requested by the responsible state official. However, legal responsibility remains with state and local officials. Corps assistance will be terminated when the flood waters recede below bankfull. Removal of ice jams is a local responsibility; however, Corps technical advice and assistance, as well as assistance with flood fight operations can be provided to supplement state and local efforts. The Corps will normally not perform ice jam blasting operations.

(b) *Post flood response.* A written request from the Governor to the district or operating division commander is required to receive Corps assistance. Corps assistance will be limited to major flood or coastal storm disasters resulting in life threatening situations. The Governor's request should include: verification that the Federal Emergency Management Agency (FEMA) has been requested to initiate Preliminary Damage Assessments (PDA); statement that assistance required is beyond the State's capability; specific damage locations; extent of Corps assistance required to supplement state and local efforts. The Governor's request should be transmitted concurrently with the request to FEMA for PDA. Corps assistance is limited to 10 days following receipt of the Governor's written request or on assumption of activities by State and local interests, whichever is earlier. After a Governor's request has triggered the 10-day period, subsequent request(s) for additional assistance resulting from the same flood or coastal storm event will not extend the 10-day period or

## § 203.41

trigger a new 10-day period. The Corps will deny a Governor's request if it is received subsequent to a Presidential declaration or denial. Shoreline or beach erosion damage reduction/prevention will not be undertaken unless there is an immediate threat to life or critical public facilities.

(c) *Loan or issue of supplies and equipment.* Issuance of Government owned equipment or materials to non-Federal interests is authorized only in actual emergencies. Providing Government supplies is authorized only after local resources have been fully committed. Equipment which is loaned should be returned to the Corps immediately after the flood operation ceases in a fully maintained condition. Expendable supplies such as sandbags will be replaced in kind or paid for by local interests to the extent considered feasible and practicable by the division or district commander. All unused expendable supplies will be returned to the Corps when the operation is terminated.

### Subpart D—Rehabilitation

#### § 203.41 General.

(a) *Scope of rehabilitation.* (1) Pub. L. 84-99 authorizes repair and restoration of the following projects to ensure their continued function:

- (i) All flood control projects.
- (ii) Federally authorized and constructed hurricane flood protection projects.
- (iii) Federally authorized and constructed beach erosion control projects.

(2) Modification of works to increase the degree of protection, or to provide protection to a larger area, is beyond the scope of Pub. L. 84-99. Such major modifications are normally accomplished under Congressional authorization and appropriation, or under special continuing authorities of the Corps. Modifications to increase the reliability of the existing protection must meet the criteria established in this subpart to be eligible for funding under Pub. L. 84-99.

(b) [Reserved]

## 33 CFR Ch. II (7-1-01 Edition)

#### § 203.42 Restrictions.

(a) *Restrictions to flood control works.* Projects must be designed and constructed to have appreciable and dependable protection in preventing damage from irregular and unusual rises in water levels to be considered flood control works. Structures built primarily for the purpose of channel alignment, navigation, recreation, fish and wildlife enhancement, land reclamation, drainage, or erosion protection are ineligible for Pub. L. 84-99 rehabilitation.

(b) *Non-flood related rehabilitation.* Rehabilitation of flood control structures damaged by occurrences other than floods, hurricanes, or coastal storms is not authorized under Pub. L. 84-99.

(c) *Maintenance and deterioration deficiencies.* Rehabilitation under Pub. L. 84-99 will not be applied to works which, as a result of poor maintenance or deterioration, require substantial reconstruction. All deficient or deferred maintenance existing when flood damage occurs will be accomplished by or at the expense of the responsible non-Federal interests, either prior to or concurrently with authorized rehabilitation work. When work accomplished by the Corps corrects deferred maintenance, the estimated deferred maintenance cost will be included as contributed non-Federal funds in addition to the cost-sharing requirement addressed in § 203.82(d). Failure of responsible non-Federal interests to correct significant deficiencies noted during regular inspections may result in suspension of any future rehabilitation assistance under Pub. L. 84-99.

(d) *Economic justification.* No project will be repaired unless the work satisfies the Corps criteria for a favorable benefit-to-cost ratio.

[48 FR 56373, Dec. 21, 1983, as amended at 51 FR 25691, July 16, 1986]

#### § 203.43 Project development.

At the earliest opportunity, the project sponsor will be informed of any work which must be accomplished at non-Federal cost. This includes costs to correct maintenance deficiencies and/or any modifications which are necessary to preserve the integrity of the project but are beyond those authorized under Pub. L. 84-99.